



**Submission to the Inquiry into the *National Health Reform Amendment (National Health Performance Authority) Bill 2011***

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The Consumers Health Forum of Australia (CHF) is the national peak body representing the interests of Australian health care consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF welcomes the opportunity to provide comment to the Senate Community Affairs Legislation Committee's Inquiry into the *National Health Reform Amendment (National Health Performance Authority) Bill 2011*, following our comments in March 2011 to the House of Representatives Standing Committee on Health and Ageing in relation to this Bill. This Bill establishes the National Health Performance Authority. Performance measurement and reporting is of considerable interest to health consumers, as measurement is essential to identifying areas for performance improvement and ensuring that health consumers across Australia have access to the highest standards of health care. Health consumers have a particular interest in how measures of consumer experience are incorporated into health system performance measurement, particularly as there are few measures currently in place, and none at a national level.

CHF welcomes the establishment of the National Performance Authority, as we anticipate that it should result in the introduction of rigorous performance indicators at a national level, which will drive health system quality and performance in Australia.

However, CHF has concerns about some aspects of the Bill, outlined in our earlier submission. These concerns relate to the sections of the Bill on the National Performance Authority. We have previously provided comments on the legislation relating to the establishment of the Australian Commission on Safety and Quality in Health Care as a permanent body, and have no additional comments arising out of the amendments in this Bill.

As noted above, these concerns were also raised in our submission to the House of Representatives Committee. CHF does not agree with the conclusion in the Committee Report that '*the Bill to establish the Performance Authority adequately sets out the Authority's essential operational and structural parameters*'. Therefore, the current submission largely replicates our earlier submission, as none of the concerns raised previously were addressed in the earlier Committee process.

Our specific concerns are:

- Section 60 should provide more information on the areas of performance to be assessed by the Performance Authority.
- Section 62 should provide greater clarity about whether comments on a report of poor performance will influence the content of the final report that is released.
- Section 64 should include reference to allied health services.
- Section 72 should include a requirement for the Performance Authority to include a member with expertise or knowledge in the measurement of consumer experiences of health care.

- Section 112 should specify whether the Performance Authority's Strategic Plan will be a public document.
- Section 122 should specify that a person must provide *informed* consent before information relating to the affairs of that person is disclosed.
- Section 128 should specify that a patient must provide *informed* consent before the Performance Authority or the Commission may publish or disseminate information that is likely to enable the identification of that patient.

Our concerns are outlined in more detail below.

## Areas of concern

### Section 60: Functions of the Performance Authority

CHF notes that the functions of the Performance Authority include monitoring, and preparing reports on, matters relating to the performance of local hospital networks, public hospitals, private hospitals, primary health care organisations, and other bodies or organisations providing health care services. CHF welcomes this important work. However, we are surprised that there is no information contained in this section about any of the areas for performance measurement. While we would not want to see the activities of the Performance Authority limited to reporting on particular areas outlined in the legislation, **we consider that it is appropriate, and indeed necessary, for the legislation to outline at least a minimum scope for the areas of performance to be assessed by the Performance Authority.**

We note that this section allows the Performance Authority to formulate its own performance measures, but also to make use of performance measures and standards formulated by a person or body other than the Performance Authority. CHF welcomes this, as there are many bodies and organisations currently working in the area of health system performance measurement. Where there are already effective standards and measures in place, attempting to duplicate these would be a poor use of public funds. However, it is also important that the Performance Authority has access to sufficient resources and expertise to develop its own measures where effective measures are not already in use.

### Section 62: Additional provisions about reports

CHF notes that section 62 requires that, where a report of the Performance Authority indicates poor performance by a health entity or facility, the Performance Authority must provide a copy of the report to the manager of the entity and facility and invite written comments. **CHF seeks clarification about whether the written comments will influence the final report that is released to the public.** It is important that health consumers have access to complete and uncensored information on their health care facilities, if they are to be able to make informed choices about where to access health care.

### Section 64: Constitutional limits

Part (a) of this section states that the Performance Authority may perform its functions only for purposes related to the provision of pharmaceutical, sickness or hospital benefits;

or the provision of medical or dental services. **CHF seeks clarification about whether this includes allied health services.** The performance of allied health services should also be assessed by the Performance Authority, as these play an increasingly important role in consumers' health care.

### **Section 72: Appointment of members of the Performance Authority**

CHF notes that the Performance Authority will consist of a Chair, a Deputy Chair and five other members. Section 72 states that at least one member of the Performance Authority must have substantial experience or knowledge and significant standing in the health care needs of people living in regional and rural areas, and the provision of health care services in regional or rural areas. While we recognise the unique challenges in rural and remote health care delivery, and support the inclusion of a member with this expertise, **CHF also argues that the Performance Authority should include a member with expertise or knowledge in the measurement of consumer experiences of health care.**

### **Section 112: Strategic Plan**

This section states that the Performance Authority must prepare a strategic plan at least once every three years and provide it to the Minister. **CHF seeks clarification about whether this will be a public document.**

### **Section 122: Disclosure with consent**

CHF notes that an official of the Performance Authority may disclose protected Performance Authority information relating to the affairs of a person if that person has consented to the disclosure. **CHF argues that the legislation should specify that this must be *informed* consent**, so that the person is fully aware of the implications of providing consent.

### **Section 128**

CHF welcomes the provisions applying to both the Australian Commission on Safety and Quality in Health Care and the Performance Authority requiring that the bodies must not publish or disseminate information that is likely to enable the identification of a particular patient. CHF notes that these provisions do not apply if consent has been provided. **CHF argues that the legislation should specify that this must be *informed* consent**, so that the consumer or another person who is able to give consent is fully aware of the implications of providing consent.

CHF notes that the *National Health and Hospitals Network Bill 2010* was amended in the Senate to include reference to *informed* consent in the relevant provisions of that Bill;<sup>1</sup> it is appropriate that this is reflected in the current Bill.

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<sup>1</sup> Commonwealth of Australia, *Parliamentary Debates*, Senate, 3 March 2011, page 35, Senator Siewert (Senator for Western Australia).  
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## Conclusion

CHF welcomes the introduction of legislation to establish the National Performance Authority. However, in this submission, and in our earlier submission to the House of Representatives Standing Committee on Health and Ageing, we have raised concerns about some of the current wording of the legislation. CHF would like to see more detail about the functions of the Performance Authority; clarity around whether the Performance Authority will assess allied health services; inclusion of a person with expertise in the measurement of consumer experiences as a member of the Performance Authority; and reference to *informed* consent in relation to confidentiality.

CHF would welcome the opportunity to expand on these comments at a public hearing, particularly as the House of Representatives Committee process involved only one public hearing, with the Department of Health and Ageing as the sole witness, due to the short timeframe for reporting.



The Consumers Health Forum of Australia (CHF) is the national peak body representing the interests of Australian healthcare consumers. CHF works to achieve safe, quality, timely healthcare for all Australians, supported by accessible health information and systems.

CHF does this by:

1. advocating for appropriate and equitable healthcare
2. undertaking consumer-based research and developing a strong consumer knowledge base
3. identifying key issues in safety and quality of health services for consumers
4. raising the health literacy of consumers, health professionals and stakeholders
5. providing a strong national voice for health consumers and supporting consumer participation in health policy and program decision making

CHF values:

- our members' knowledge, experience and involvement
- development of an integrated healthcare system that values the consumer experience
- prevention and early intervention
- collaborative integrated healthcare
- working in partnership

CHF member organisations reach thousands of Australian health consumers across a wide range of health interests and health system experiences. CHF policy is developed through consultation with members, ensuring that CHF maintains a broad, representative, health consumer perspective.

CHF is committed to being an active advocate in the ongoing development of Australian health policy and practice.